

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

TORRANCE RAY BUNCH

PLAINTIFF

v. Civil No. 06-2162

ERIC WILLIAMS, Detective, Fort
Smith Police Department;
JAMES MARSCHIEWSKI, Judge,
Sebastian County Circuit Court;
STEPHEN TABOR, Prosecuting
Attorney, Sebastian County, Arkansas;
and the SEBASTIAN COUNTY
DETENTION CENTER

DEFENDANTS

ORDER

NOW on this 13th day of November 2006, comes on for consideration the Report and Recommendation of the Magistrate Judge (document #5), filed on October 17, 2006, and plaintiff's pleading which this Court will consider as objections to the Report and Recommendation (document #6), filed on November 7, 2006, and the Court, being well and sufficiently advised, finds and orders as follows:

1. Plaintiff's objections offer neither law nor fact requiring departure from the Report and Recommendation and the same should be adopted in toto and its recommendations implemented.

2. Plaintiff's complaint should be dismissed on the grounds that the claims therein asserted are frivolous, are asserted against individuals immune from suit, or are not cognizable under § 1983. 28 U.S.C. § 1915(e)(2)(B)(I)-(iii) (IFP action, or any portion thereof, may be dismissed on such grounds at any time).

3. Further, plaintiff's complaint should be dismissed on the grounds that the claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994). To the extent that any of plaintiff's claims concerning pending charges are not barred by Heck v. Humphrey, 512 U.S. 477 (1994), abstention under Younger v. Harris, 401 U.S. 37 (1971) is appropriate.

IT IS THEREFORE ORDERED

* that plaintiff's objections to the Report and Recommendation should be, and they hereby, overruled and the report is adopted in toto;

* that plaintiff's case should be, and it hereby is, dismissed on the grounds that the claims are frivolous, are asserted against individuals immune from suit, or are not cognizable under § 1983; and

. that, plaintiff's case should be, and it hereby is, dismissed on the grounds that the claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994). To the extent that any of plaintiff's claims concerning pending charges are not barred by Heck v. Humphrey, 512 U.S. 477 (1994), abstention under Younger v. Harris, 401 U.S. 37 (1971) is appropriate.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE